

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charlie Hartford	Team: Squad #8	CCRB Case #: 201904129	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 05/02/2019 9:38 AM, Thursday, 05/02/2019 10:02 AM	Location of Incident: 442 East Houston Street and the 9th Precinct stationhouse	Precinct: 09	18 Mo. SOL 11/2/2020	EO SOL 6/19/2021	
Date/Time CV Reported Tue, 05/07/2019 10:41 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/13/2019 11:21 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Morton	02398	925787	009 PCT
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Daniel Miranda	01281	934001	MAN CT
2. SGT Shaminul Karim	01171	917803	009 PCT
3. POM Zachery Zinaman	16519	960081	009 PCT
4. POM Tong Jiang	02362	961838	009 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas Morton	Off. Language: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton made remarks based on § 87(2)(b) gender identity.	
B.POM Thomas Morton	Abuse: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton damaged § 87(2)(b) property.	
C.POM Thomas Morton	Abuse: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton interfered with § 87(2)(b) use of a recording device.	
D.POM Thomas Morton	Discourtesy: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton acted discourteously toward § 87(2)(b)	
E.POM Thomas Morton	Abuse: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton threatened to arrest an individual.	
F.POM Thomas Morton	Discourtesy: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton spoke discourteously to § 87(2)(b)	
G.POM Thomas Morton	Off. Language: At the 9th Precinct stationhouse in Manhattan, Police Officer Thomas Morton made remarks based on § 87(2)(b) gender identity.	
H. Officers	Abuse: At the 9th Precinct stationhouse in Manhattan, officers did not obtain medical treatment for § 87(2)(b)	

Case Summary

On May 7, 2019, § 87(2)(b) filed this complaint with IAB under original log #19-17909. On May 13, 2019, this case was received by the CCRB.

On May 2, 2019, at approximately 9:38 a.m., in the vicinity of 442 East Houston Street in Manhattan, Police Officer Thomas Morton of the 9th Precinct allegedly made remarks based upon the gender identity of § 87(2)(b) (**Allegation A: Offensive Language,** § 87(2)(g)). PO Morton damaged § 87(2)(b) property and interfered with her use of a recording device (**Allegations B and C: Abuse of Authority,** § 87(2)(g)). PO Morton acted discourteously to § 87(2)(b) (**Allegation D: Discourtesy,** § 87(2)(g)). PO Morton threatened to arrest § 87(2)(b) (**Allegation E: Abuse of Authority,** § 87(2)(g)). PO Morton spoke discourteously to § 87(2)(b) (**Allegation F: Discourtesy,** § 87(2)(g)). § 87(2)(b) was arrested during this incident.

On May 2, 2019, at approximately 10:02 a.m., in the vicinity of the 9th Precinct stationhouse in Manhattan, PO Morton allegedly made remarks based upon the gender identity of § 87(2)(b) (**Allegation G: Offensive Language,** § 87(2)(g)). Officers allegedly did not obtain medical treatment for § 87(2)(b) (**Allegation H: Abuse of Authority,** § 87(2)(g)). PO Morton allegedly made remarks based upon the gender identity of § 87(2)(b).

§ 87(2)(b) was arrested as a result of this incident.

This case contains body-worn camera footage (Board Reviews 08-12, 04).

Findings and Recommendations

Allegation (A) Offensive Language: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton made remarks based on § 87(2)(b) gender identity.

Allegation (G) Offensive Language: At the 9th Precinct stationhouse in Manhattan, Police Officer Thomas Morton made remarks based on § 87(2)(b) gender identity.

It is undisputed that on May 2, 2019, at approximately 9:38 a.m., PO Morton pulled over § 87(2)(b) vehicle for allegedly committing multiple violations of the New York State Vehicle and Traffic Law. It is undisputed that PO Morton referred to § 87(2)(b) as “sir” multiple times at the outset of the interaction, including after being corrected by § 87(2)(b). § 87(2)(b) alleged that PO Morton addressed her as “sir” numerous times throughout the interaction, including later at the 9th Precinct stationhouse.

In his CCRB interview, PO Morton acknowledged that he may have referred to § 87(2)(b) as “sir” at the outset of the interaction because her phone was obscuring his view of her person (Board Review 05). PO Morton acknowledged that he may have continued to address § 87(2)(b) as “sir” after being corrected by § 87(2)(b) but denied ever doing so deliberately.

This portion of the interaction is depicted between 00:54 minutes and 01:10 minutes in PO Morton’s BWC (Board Review 08). The footage shows PO Morton initially addressing § 87(2)(b) as “ma’am,” then addressing her several times as “sir” despite being corrected by § 87(2)(b). There is no video evidence that depicts PO Morton interacting with § 87(2)(b) at the 9th Precinct stationhouse.

Patrol Guide Procedure 203-10 prohibits officers from making disparaging remarks based upon an individual’s gender identity and instructs officers to address members of the public by their preferred pronouns (Board Review 13).

§ 87(2)(g)

Allegation (B) Abuse of Authority: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton damaged § 87(2)(b) property.

Allegation (C) Abuse of Authority: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton interfered with § 87(2)(b) use of a recording device.

Allegation (D) Discourtesy: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton acted discourteously toward § 87(2)(b)

It is undisputed that § 87(2)(b) attempted to record the outset of this interaction using her cell phone, and that after PO Morton asked § 87(2)(b) multiple times to provide her license and registration, PO Morton grabbed § 87(2)(b) phone and threw it. PO Morton stated during his CCRB interview that he did not recall where he threw the phone; however, body-worn camera footage indicates that he threw the phone onto the sidewalk on the opposite side of § 87(2)(b) vehicle (Board Review 05 and 08). Both § 87(2)(b) CCRB testimony and the summary of the footage included in the IAB log are consistent in this regard (Board Review 01 and 03).

In his CCRB interview, PO Morton claimed that he told § 87(2)(b) that while she could record, she had to set her phone to the side so that it did not obscure his vision (Board Review 05). PO Morton claimed that, after deciding to arrest § 87(2)(b) he removed § 87(2)(b) phone from her hand because it could be used as a weapon, and because it was obscuring his vision. PO Morton stated there was no reason why he tossed § 87(2)(b) phone as opposed to taking an alternative course of action.

PO Morton is depicted throwing § 87(2)(b) phone at 1:45 minutes in his body-worn camera footage (Board Review 08). Prior to this point, PO Morton is depicted only issuing one instruction regarding § 87(2)(b) phone: to not “stick that in [his] face.”

§ 87(2)(b) stated that she would provide a photograph of damage to her phone to the investigation and failed to do so. § 87(2)(g)

Patrol Guide 200-02 establishes that the mission of the New York City Police Department is to protect the lives and property of the citizens of New York City, and requires officers to interact courteously with civilians (Board Review 14).

Patrol Guide Procedure 203-29 affirms that civilians have a right to record police action, which may be limited for reasons such as officer safety (Board Review 15).

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton threatened to arrest § 87(2)(b).

At 2:55 minutes in PO Morton's BWC, § 87(2)(b) attempts to hand her phone to an unidentified individual, at which time PO Morton, who is attempting unsuccessfully to handcuff § 87(2)(b) states, "Do not get involved, you will be arrested too" (Board Review 08). PO Morton stated during his CCRB interview that this individual would have been arrested for Obstruction of Governmental Administration (Board Review 05).

NYS Penal Law § 195.05 states that a person is guilty of obstructing governmental administration when he intentionally prevents or attempts to prevent a public servant from performing an official function by means of physical force or interference (Board Review 06).

§ 87(2)(g)

Allegation (F) Discourtesy: At 442 East Houston Street in Manhattan, Police Officer Thomas Morton spoke discourteously to § 87(2)(b).

It is undisputed that PO Morton told § 87(2)(b) "You are stupid," and stated that she would be receiving a whole "shitload" of charges. These statements may be heard at 03:44 minutes and 06:24 minutes in PO Morton's BWC, respectively (Board Review 08).

In his CCRB interview, PO Morton offered no explanation for making the above-referenced statements, aside from stating that he was winded, that he found it ridiculous that § 87(2)(b) reacted in the manner that she did to receiving a traffic ticket, and that the word "shitload" was not directed at § 87(2)(b) (Board Review 05).

Patrol Guide 200-02 requires officers to interact courteously with civilians (Board Review 14).

In Disciplinary Case No. 2017-17005, the Deputy Commissioner of Trials noted that it has consistently held that "profane remarks, made during stressful situations or while an officer is trying to get a chaotic situation under control, are not misconduct" (Board Review 16). The court found that an officer telling a bystander complaining of excessive force to "shut the fuck up" had committed misconduct because the situation was "not so chaotic that the duty of courteous and professional behavior should be overridden by the immediate need to maintain order."

§ 87(2)(g)

Allegation (H) Abuse of Authority: At the 9th Precinct stationhouse in Manhattan, officers did not obtain medical treatment for § 87(2)(b).

In her sworn statement, § 87(2)(b) claimed that she complained of pain to her shoulder, which she incurred while PO Morton handcuffed her, throughout the entire interaction, beginning with when she was presented at the front desk at the stationhouse (Board Review 03). § 87(2)(b) claimed that she made this complaint to “everyone,” and did not further specify to whom she made this complaint. § 87(2)(b) did not respond to numerous attempts to contact her following her sworn statement. § 87(2)(b) initial complaint was consistent with her sworn statement (Board Review 01).

While § 87(2)(b) is depicted being presented in front of the 9th Precinct stationhouse desk on PO Jiang’s body-worn camera footage (Board Review 10), § 87(2)(b) is not depicted complaining of pain to her shoulder or requesting medical treatment at any point in any officer’s body-worn camera footage (Board Reviews 08-12).

§ 87(2)(b) stated that she requested medical treatment over an extensive period of time, during which she interacted with numerous officers, without providing additional information about to whom she made this complaint. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is § 87(2)(b) third CCRB complaint and the first to be fully investigated by the agency (Board Review 17).
- PO Morton has been a member of service for 19 years. He has been the subject of 20 allegations in 6 prior cases.
 - In CCRB 201608693 and CCRB 200502286, PO Morton was the subject of unsubstantiated allegations regarding verbal discourtesy. In the former case, PO Morton was also the subject of unsubstantiated allegations regarding offensive language – sexual orientation, while in the latter PO Morton was the subject of unsubstantiated allegations regarding a threat of arrest.
 - In CCRB 201608693, PO Morton was the subject of a substantiated chokehold allegation. The CCRB recommended Command Discipline A, while the NYPD instituted no penalty.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- A FOIL request submitted to the NYC Comptroller’s Office indicates that as of November 20, 2019, § 87(2)(b) had not filed a Notice of Claim regarding this incident (Board Review 18).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)

Squad No.: 8

